

Appl. No. 10/630,502
Docket No. P138
Amdt. dated May 26, 2009
Reply to Office Action mailed on February 26, 2009
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 27 were pending in the present application. No additional claims fee is believed to be due. Claims 1 – 18 have been withdrawn as a result of an earlier restriction requirement. Claims 19 and 20 have been canceled.

Rejection Under 35 U.S.C. § 103(a) Over De Boer and Mattson

Claims 19 – 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over De Boer et al, (JP 02227051) (“De Boer”) in view of Mattson (US Patent No. 4,034,083). Applicants respectfully traverse this rejection.

Claim 21 is directed towards, *inter alia*, a pet food composition comprising at least about 0.05% polyol fatty acid polyester, by weight of the composition; wherein the composition provides from about 0.001 to about 400 mg of the polyol fatty acid ester per kg body weight of the mammal; and wherein the mammal is selected from the group consisting of cats and rabbits; and wherein said pet food composition is a nutritionally balanced composition selected from the group consisting of kibble compositions, high moisture compositions, and semi-dry compositions.

De Boer is directed to “application of nonfermentable dietary fiber as an archorrhea-preventing agent in low-calorie food products comprising an indigestible single-blend polyol fatty acid polyester.” Page 6, para 3. Mattson is directed to “[p]olyol fatty acid polyesters having at least four fatty acid ester groups are fortified with fat-soluble vitamins and used in pharmaceutical compositions for treating and/or preventing hypercholesterolemia in animals, especially humans, and in low-calorie foods.” *Abstract*. As best understood by Applicants, De Boer and Mattson are, therefore, directed to compositions for low calorie foods, reducing cholesterol and treating and/or preventing hypercholesterolemia. De Boer and Mattson, either alone or in combination, however, fail to teach the compositions of the current application.

The claims of the current application are directed towards, *inter alia*, nutritionally balanced compositions for mammals, such as cats and rabbits, selected from the group consisting of kibble compositions, high moisture compositions and semi-dry

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compositions. The current specification notes that nutritional balance includes the relative proportions of vitamins, minerals, protein, fat and carbohydrate. Page 10, lines 20 – 22. “For example, the nutritional balance of a cat food composition is determined according to the known dietary requirements for cats.” Page 10, lines 22 – 24.

De Boer discloses that “suitable low-calorie food products may include puff pastries, cakes, cake mixes, dough, biscuits, potato chips, candy finished goods, chocolate finished goods, meat snacks, hot dogs, sausages, hamburger, peanut butter, spreads, deep-fried finished goods, chips, potato chips, etc.” Page 14, lines 2 – 6. Mattson discloses compositions such as gelatin capsules (Examples I, II, and III), low calorie, fat-containing salad oil (Example IV), plastic shortening (Example V), a vitamin-fortified margarine composition (Example VI), and a stool softening laxative (Example VII). Mattson also discloses:

The vitamins used to fortify the foregoing polyesters are described in detail hereinafter. It will be appreciated that commercial preparations of the appropriate vitamins and/or appropriate vitamin mixtures which provide vitamins A, D, E and K can be used herein.

In general terms, the vitamins are classified as either “fat-soluble” or “water-soluble”. The fat-soluble vitamins are used to fortify the polyester materials herein. The fat-soluble vitamins include vitamin A, vitamin D, vitamin E, and vitamin K.

Col. 7, lines 37 – 46. As best understood by Applicants, however, the disclosures of Mattson relate to the fortification of the polyester with particular vitamins and not to the nutrition of overall compositions. As best understood by Applicants, neither De Boer or Mattson disclose the use of a polyol fatty acid polyester composition in a nutritionally balanced food selected from the group consisting of kibble compositions, high moisture compositions, and semi-dry compositions for consumption by a cat or rabbit. Thus, as best understood by Applicants, neither De Boer or Mattson disclose compositions comprising the relative proportions of vitamins, minerals, protein, fat and carbohydrate which would meet the dietary requirements of cats or rabbits. While the compositions of De Boer and Mattson may comprise polyol fatty acid polyesters, there is no disclosure in De Boer and Mattson, either alone or in combination, of incorporating a polyol fatty acid polyester into a nutritionally balanced composition wherein the polyol fatty acid polyester would remain functional for its intended purpose. Thus, as best understood by

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Applicants, the combination of De Boer and Mattson fails to provide one of ordinary skill in the art with a reasonable expectation of success in arriving at a nutritionally balanced composition for a mammal, such as a cat or a rabbit, comprising a polyol fatty acid polyester.

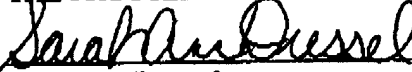
Applicants respectfully request reconsideration and withdrawal of the rejection.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, reconsideration of this application and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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